

UNITED STATES DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

Serial No. 09/833,519

Applicant: Harry C. Merritt

Examiner: Rowan, Kurt C.

Filing Date: April 21, 2001

Art Unit: 3643

Mark: FLY CASTING TRAINING DEVICE

REQUEST FOR CONTINUED EXAMINATION

Assistant Commissioner of Patents  
Washington, DC 20231

Dear Sir or Madam:

Pursuant to 37 C.F.R. 1.114 Applicant submits the following arguments:

Rejections 35 U.S.C. § 102

In an Office Action dated November 5, 2002, the examiner rejected Claims 1-3, 12-13, under 35 U.S.C. § 102(b) as anticipated by Haber. The examiner first reasons that the Haber U.S. Patent #2,893,158 shows: "... a fishing rod having a throwing projectile (36) with a bore (44, 45) therethrough as shown in Figures 1-5." Applicant respectfully traverses the conclusion of the examiner that retainer elements (44, 45) constitute a bore on the throwing projectile (36). For the Haber device to function, it is only necessary that the throwing projectile (36) have means to attach fishing line section to one side of the throwing projectile (36) and a second means for attaching a second portion of a fishing line projectile (36). Indeed, in Figure 6 of the Haber patent, different sections of fishing line (55, 56) are shown. The Haber throwing projectile (36) must be attached to the fishing lines by some expedient, be it the retainer elements (44, 45) or loops (53, 54), or the

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anchor loop (66). The retainer elements (44, 45) do not form a bore on the projectile (36) and no bore is required for the Haber reference to work. The examiner then goes on to reason that Haber: "... shows a second throwing projectile section (28) whereby the throwing projectile (36) slides upon the throwing projectile section by the throwing projectile bore." In Applicant's response to the first Office Action, the Applicant respectfully requested clarification as to what is meant by the "throwing projectile bore." The examiner has not explained in the November 5 Office Action. As explained above, the retainer elements (44, 45) do not constitute a bore and the projectile (36) does not slide upon the throwing projectile section (28) by means of the retainer elements (44, 45). If there is some other bore in the throwing projectile (36) which slide upon the throwing projectile section (28), the Applicant respectfully requests the examiner identify this bore by showing where in the Haber reference this bore is shown and where it is shown how it slides onto the throwing section (28). If the examiner cannot offer this explanation, Applicant requests the 102 rejection be withdrawn.

The examiner next reasons that Haber shows: "...an elongated piece (17) and a first mounting section (27) for mounting the elongated piece (17) on the terminal end of a fishing rod (15)." Applicant respectfully traverses the conclusion of the examiner that "the elongated piece (17) has a first mounting section (27)." The Haber reference discloses the brace (27) for mounting the tip (17). The brace (27) is not described or shown as part of the tip (17). In this application the elongated tube (12) has a mounting end (13) and a projectile end (14). The mounting end (13) is an integral part of the elongated tube (12) and is used to mount the elongated tube (12) to a fishing rod. The Applicant respectfully traverses the conclusion of the examiner that the tip (17) has as an integral part of it a first mounting section (27). The brace (27) is not described as part of the overall tip (17) and is a separate structure. Second, applicant respectfully traverses the conclusion of the

examiner that the tip (17) of the Haber reference is “an elongated piece.” The examiner reasoned in response to the Applicant’s earlier arguments that: “The apertured magnetic tip member (17) of Haber is an elongated piece since it has a length.” Applicant respectfully requests clarification from the examiner. The Applicant understands that any three-dimensional object has to have a length as part of the three dimensions that define a solid object. Of course, using the examiner’s reasoning that having a length qualifies an object as “elongated”, then any three-dimensional shape could be used as a 102 reference for a “elongated piece” required in the claims of this application. The effect of the examiner’s reasoning is to remove the adjective “elongated” from the claim as it modifies the term “piece” in Claim 1. This is contrary to basic patent law that each word of a claim must have a meaning and must be given effect. Environment Instrument v. Sutron Corp., 877 F2d. 1561, 1564 (Fed. Circ. 1989).

Next the examiner reasons that: “Haber shows mounting the elongated piece on the terminal end of the rod without removing or modifying any hardware on the rod. Applicant has not stated what this hardware is.” The Haber reference shows a rod (15) with a butt (16), a reel (18), a line (19), and guide rings (20, 21 22). At the terminal end of the rod (15), there is no guide ring but rather the Haber invention, which is placed at the end of the rod by the brace (27) mounting the tip (17). This is in contrast to the applicant whose fly cast training device (10) mounts on the terminal eyelet (22) at the extreme end of the fly casting rod (20). The Haber reference has replaced a standard rod eyelet, like the eyelets shown as (20, 21, 22), by the brace (27), and tip (17). The Applicant states, as requested by the examiner, that the hardware that Haber uses to replace the standard terminal eyelet on the rod is the brace (27) and the tip (17).

Regarding Claims 2-3, the examiner has also rejected these claims under 35 U.S.C. 102(b)


as being anticipated by the Haber reference. Claim 2 adds the limitation that the elongated piece of the current invention is bent at a predetermined angle to the terminal end of a fly rod. Applicant respectfully requests what portion of the Haber tip (17) is bent at a predetermined angle to the fishing rod (15). Claim 3 adds the further limitation that the predetermined angle is at least 90°. Applicant respectfully traverses the conclusion of the examiner that the tip (17) has an elongated portion bent at an angle of at least 90° to the terminal to the rod (15). The Haber reference tip (17) is not elongated, as was explained above. As such, the tip (17) is shown as an apertured tip member and an integral part of the rod and attached to the rod by the separate brace piece (27). There is no portion of the tip (17) that can be fairly described as “elongated” or bent at a predetermined angle. When thrown, the disc (36) follows the direction of the line (40) as constrained by the eyelets (20, 21, 22) and the bore (23) to initially travel in a direction parallel to the rod (15). The current invention constrains the throwing projectile (50), when correctly cast, to initially travel in a direction that is at the predetermined angle to the rod tip. This is how this invention further functions to teach a proper fly casting motion. Consequently, the Haber reference tip (17) is not shown or described as an elongated piece, is not shown bent at any predetermined angle, especially one of more than 90°.

### Conclusion

The Haber reference lacks a throwing projectile bore for mounting the disc (36). The retainer elements (44, 45) are not a bore on the throwing projectile. The projectile (36) does not mount on a throwing projectile section by means of retainer elements (44, 45) or any bore identified by the examiner. The tip (17) does not have a mounting section integral to the piece (17). Rather, the piece (17) mounts by a separate brace (27). The Applicant has requested clarification from the examiner as to what dimension of the tip (17) is deemed elongated. As explained, the tip

(17) is an apertured piece described as a tip (17). This replaces the terminal eyelet on the rod and is mounted there by the brace (27). The Applicant has explained that the Haber tip (17) is not elongated nor is it bent at a predetermined angle to the rod (15). The throwing piece or disc (36) is attached in such a way to the tip (17) that, when cast, the throwing disc (36), at least initially, moves in a direction parallel to the rod. In this invention, the throwing projectile (50), when correctly cast, travels in a direction that is at the predetermined angle bent into elongated piece to the rod tip. The remaining dependent claims, while not discussed, should be allowable if the independent claims are allowable. Therefore, it is believed that all claims are in a condition for allowance. The allowance of all claims is respectfully requested.

This the 26 day of Feb., 2003.

  
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CERTIFICATE OF SERVICE

I, Michael E. Mauney, do hereby certify that a copy of the foregoing 37 C.F.R. 1.114 Submission in:

In Re Application: Harry C. Merritt

Serial Number: 09/833,519

For: FLY CASTING TRAINING DEVICE

Filed: April 21, 2001

has this day been duly served upon:

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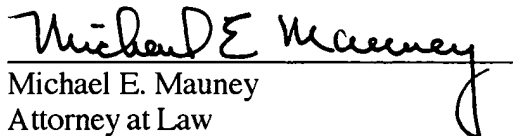
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Also served by FAX delivery to:

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This the 26 day of Feb, 2003.

  
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